

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:07-cr-183
also 3:11-cv-429

-vs-

District Judge Walter Herbert Rice
Magistrate Judge Michael R. Merz

:

ANTONIO PIERCE,

Defendant.

DECISION AND ORDER

This § 2255 matter is before the Court on Defendant's Motion Requesting Discovery and Appointment of Counsel (Doc. No. 374). The Motion was filed January 17, 2012, and the time for response under S. D. Ohio Civ. R. 7.2 has expired without any opposition by the United States. Nevertheless, Rule 6 of the Rules Governing § 2255 Motions requires a showing of good cause before discovery is conducted. The Court cannot determine whether there is good cause for the discovery without a response from the United States as to the existence of the described documents and whether they are material to the claims made in the § 2255 Motion.

It is accordingly ordered that not later than February 28, 2012, the United States shall file a response to the Motion setting forth whether or not any of the following documents exist:

cooperation agreements made between the United States and Movant;
any Kastigar letters granting movant immunity as to the information
he supplied at his debriefings with the United States and any and all
documents in preparation of Movant providing substantial assistance
to the United States in this case, pre-plea.

(Motion, Doc. No. 374, PageID 1409.) At the same time, the United States shall produce any such

documents for in camera inspection and state its position as to whether the discovery should be allowed as to any of the documents.

The Court concludes that an attorney is not necessary for Defendant to conduct discovery of these documents effectively and Defendant's motion for appointment of counsel is therefore denied.

February 18, 2012.

s/ **Michael R. Merz**
United States Magistrate Judge